

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RICKY J. HAMBY,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-626-JJF
)	
DR. KASTRE, et al.,)	Jury Trial Requested
)	
Defendants.)	

**STATE DEFENDANTS RAPHAEL WILLIAMS AND
STANLEY TAYLOR’S ANSWER TO THE COMPLAINT**

COMES NOW, the State Defendants Warden Raphael Williams and Commissioner Stanley Taylor (the “State Defendants”), by and through their undersigned counsel, and hereby respond to the Complaint of Plaintiff Ricky J. Hamby (“Hamby” or “Plaintiff”), dated August 15, 2005 and filed August 25, 2005 (D.I. 2) (the “Complaint”). The Complaint is not numbered. Therefore the State Defendants respond to the unnumbered paragraphs of Plaintiff’s Complaint as follows:

STATEMENT OF CLAIM AND ADDENDUM

Paragraph 1: The State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 1 of the Complaint that begins with, “Starting date; 5-10-04” and therefore, deny same.

Paragraph 2: The State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 2 of the Complaint that begins with, “I am a cronic [sic] care patient” and therefore, deny same.

Paragraph 3: The State Defendants admit that Plaintiff has written correspondence to Defendant Williams. The State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff corresponded with “all mentioned Medical Personnel” and therefore, deny same. The State Defendants deny each and every allegation of Paragraph 3 of the Complaint that begins with “Thru [sic] discovery” not specifically admitted herein.

Paragraph 4: The State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 4 of the Complaint that begins with “I contend that I will prove” and therefore, deny same.

Paragraph 5: The State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 5 of the Complaint that begins with “Finally as of January 23rd, 2005” and therefore, deny same.

Paragraph 6: The State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 6 of the Complaint that begins with “Thru [sic] my incarceration” and therefore, deny same.

Paragraph 7: Paragraph 7 that begins with “In respect to all claims” does not state any allegations or conclusions of law. Therefore no response is required. To the extent a response is required the allegations of Paragraph 7 are denied.

STATEMENT OF FACTS [RE: D.I. 3, 16, & 20]

In addition to the Statement of Claims filed with his Complaint Plaintiff has filed three additional documents called “Statement of Facts” (See D.I. 3, 16 & 20) all of which appear to be slightly different. The State Defendants assert that these “Statement of Facts” are not properly part of the Complaint nor have they been made into an amended complaint and should not be recognized. If, however, they are made part of the Complaint the State Defendants deny the allegations in all three Statement of Facts. Specifically the State Defendants deny that they were deliberately indifferent to Plaintiff’s medical needs in violation of the Eighth Amendment.

RELIEF

Defendants deny that Plaintiff is entitled to any relief.

DEFENSES AND AFFIRMATIVE DEFENSES

1. The Complaint fails to state claims upon which relief may be granted.
2. The action and all claims are barred by Eleventh Amendment immunity.
3. As to any claims against the State Defendants or against the State in their official capacities, the State Defendants and the State are protected from liability by the doctrine of sovereign immunity.
4. The State Defendants are entitled to qualified immunity.
5. As to any claims under state law, the State Defendants are entitled to immunity under the State Tort Claims Act, 10 Del. C. §4001 *et seq.*
6. To the extent the Plaintiff seeks to hold the State Defendants liable

based on supervisory responsibilities, the Doctrine of Respondeat Superior or vicarious liability is not a basis for liability in an action under 42 *U.S.C.* § 1983.

7. Defendants, in their official capacities, are not liable for alleged violations of Plaintiff's constitutional rights as they are not "persons" within the meaning of 42 *U.S.C.* § 1983.

8. This action and all claims are barred by the applicable statute of limitations.

9. Plaintiff has failed to exhaust his administrative remedies.

10. The State Defendants cannot be held liable in the absence of personal involvement for alleged constitutional deprivations.

11. The Plaintiff's claims are barred by his contributory negligence.

12. Insufficiency of service of process.

13. Insufficiency of process.

14. Lack of jurisdiction over the person and subject matter.

WHEREFORE, the State Defendants respectfully request the Court grant judgment in their favor and against the Plaintiff in all respects, and enter an Order (i) dismissing the Complaint in its entirety as to the State Defendants; (ii) awarding the State Defendants their fees and costs; and (ii) granting such other and further relief as is just and proper.

**DEPARTMENT OF JUSTICE
STATE OF DELAWARE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)

Deputy Attorney General

820 N. French Street

Wilmington, DE 19801

(302) 577-8400

Attorney for State Defendants Raphael
Williams and Stanley Taylor

Dated: May 4, 2006

CERTIFICATE OF SERVICE

I, Erika Y. Tross, Esq., hereby certify that on May 4, 2006, I caused a true and correct copy of the attached **STATE DEFENDANTS RAPHAEL WILLIAMS AND STANLEY TAYLOR'S ANSWER TO THE COMPLAINT** to be served on the following individual in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENT(S):

Inmate Ricky J. Hamby
SBI #191377
Howard R. Young Correctional Institution
P.O. Box 9561
Wilmington, DE 19809

MANNER OF DELIVERY:

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

/s/ Erika Y. Tross

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